

**SUBJECT: DECISION ON TERMINAL DISCLAIMER - INFORMAL FORM**

DATE: 9-28-00

APPL. S.N.: 091429,694

TO EXAMINER: C. Krshore

ART UNIT: 1615

**MOSE MONTGOMERY ROOM 11E18**

MAILROOM DATE 7-31-00

AFTER FINAL YES ☐ NO ☒ NUMBER OF T.D(S). FILED 1

**INSTRUCTIONS:** I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this Informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE LEFT IN FILE.

☒ The T.D. is PROPER and has been recorded. (See 14.23).

☐ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

☐ The recording fee of \$ \_\_\_\_\_ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

☐ Application Examiner has not processed T.D. fee. (See fee authorization).

☐ The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

☐ The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

☐ It is directed to a particular claim(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

☐ The person who signed the terminal disclaimer:

☐ has failed to state his/her capacity to sign for the business entity, (See 14.28).

☐ is not recognized as an officer of the assignee, (See 14.29 and possibly 14.29.01).

☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). **NOTE:** This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

☐ No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

☐ The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03 if TD is not signed by all the owners.

☐ Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

☐ The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

☐ The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

☐ The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Suggestion to request refund of \$ \_\_\_\_\_. (See 14.35, 14.36).

**EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALTIES MAY BE FAXED IN TO THE GROUP**

**FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:**

☐ Sample of a TD over a pending application and assignee Certificate (See 14.37).

☐ Sample of a TD over a prior patent and assignee Certificate (See 14.38).

☐ Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)



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AUG 21 2000

PATENT  
TLC - 144C-RIS

TECH CENTER 1600/2900  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Meers, et al.

Serial No.: 09/429,694

Art Unit: 1615

Filing Date: October 27, 1999

Examiner: Kishore, G.

For: LIPOSOMEAL CERAMIDE-RELATED LIPOSOMES AND THE  
THERAPEUTIC USE THEREOF

Docket No. TLC -144C-RIS

Hon. Commissioner of Patents  
and Trademarks  
Washington, DC 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on July 25, 2000.

By: \_\_\_\_\_

Russell G. Lindenfeldar  
Reg. No. 39,750

TERMINAL DISCLAIMER


The undersigned is an attorney of record herein, has reviewed the documents establishing the chain of title in this application to The Liposome Company, Inc., and represents: that The Liposome Company, Inc. is the sole assignee of the above-identified patent application.

The Liposome Company, Inc., hereby disclaims that portion of a patent issuing based on the above-identified application which would extend beyond the expiration of U.S. Patent No. 5,631,394. The Liposome Company, Inc., agrees that any patent so issued shall be enforceable for and during such period that the ownership of a patent issuing on the above-identified application is the same as the ownership of U.S. Patent 5,631,394. This agreement shall run with any patent granted on the above-identified application, and shall be binding upon The Liposome Company, Inc., its successors or assigns. The Liposome Company, Inc.,

explicitly reserves all rights available under the Patent Term Restoration Act of 1984 (Pub. L. No. 98-417, 98 Stat. 1585 (1984)), as enacted or amended. The Liposome Company, Inc. does not disclaim that portion of the term of a patent granted on the above-identified application which would extend beyond the shortened statutory term of U.S. Patent No. 5,631,394, in the event that patent: expires early for failure to pay a maintenance fee; is held unenforceable; is found invalid; is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a); has all claims canceled by a reexamination certificate; or, is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer.

Please charge our Deposit Account 12-1635 the amount of \$110.00 for payment of the fee required by 37 CFR Section 1.20(d). No other fee is deemed necessary in connection with the filing of this Terminal Disclaimer. However, if any other fee is required, authorization is hereby given to charge the amount of such a fee to Deposit Account No. 12-1635.

Respectfully submitted,

  
Russell G. Lindenfeldar  
Registration No. 39,750

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